

Montana Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Part I. Proposed Action Description

1. Applicant/Contact name and address: Marilee & Andy Paddock
1205 SW 4th Ct.
Oak Harbor, Washington 98277-4552
2. Type of action: Application to Change Water Right 76G 30107088
3. Water source name: Mill Creek
4. Location affected by project: SE of Section 8, SESW of Section 9, NWNW of Section 16, and SENENW & N2NE of Section 17, T4N R10W, Deer Lodge County
5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:

On June 27th, 2016, the Applicant submitted Application to Change Water Right 76G 30107088 to change the purpose of Statement of Claim No. 76G 92307 from flood irrigation to instream flow protection from May 10th to September 22nd. The proposed change results in the cessation of all flood irrigation on the historic place of use in the SE ¼ of Section 8, T4N R10W. The change also results in a temporary instream appropriation of 1.3 CFS up to 112.97 AF in Mill Creek, Deer Lodge County, for the purpose of streamflow augmentation to benefit the fishery resource. The one mile protected reach will extend from the historic point of diversion in the SENENW of Section 8 to the intersection of Mill Creek and Highway 1. The Applicant is permitted to protect 1.3 CFS up to the historic diverted volume of 112.97 AF at the point of diversion to a point approximately 1,400 feet downstream where return flows accrete in Mill Creek, and up to the historic consumed volume of 24.47 AF from the point of return flow accretion to the intersection of Mill Creek and Highway 1. The total volume permissible for this beneficial use cannot exceed 112.97 AF. It is not expected that this change will result in an enlargement of the water right.
6. Agencies consulted during preparation of the Environmental Assessment:
(include agencies with overlapping jurisdiction)

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| Montana Natural Heritage Program Montana Department of Fish, Wildlife and Parks Montana Department of Environmental Quality USDA Natural Resources Conservation Service | Species of Concern 2005 Dewatered Stream List 303(d) list of impaired streams Web Soil Survey |
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Part II: Environmental Review

1. Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity - *Assess whether the source of supply is identified as a chronically or periodically dewatered stream by DFWP. Assess whether the proposed use will worsen the already dewatered condition.*

The Department of Fish, Wildlife and Parks (FWP) lists Mill Creek as a chronically dewatered stream (per FWP Dewatering Concern Areas, May 2005). Mill Creek is tributary to Silver Bow Creek, which is tributary to the Clark Fork River. Streams are classified as chronically dewatered when dewatering is a significant problem in virtually all years. The Applicant is proposing to take a water right for a consumptive use (flood irrigation) and change it to a non-consumptive use (instream flow). This will improve stream flow conditions in the proposed one mile protected reach, and may improve the dewatered condition downstream from there. The proposed water right will not alter existing instream flows and will not negatively impact the stream by way of dewatering.

Determination: No impact.

Water quality - *Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.*

The protected reach in this application is located in a section of Mill Creek that has some beneficial uses listed as limited by the DEQ. The proposed project will not alter and/or adversely affect water quality in Mill Creek. The purpose of the project is to leave water instream for the benefit of the fishery resource and aquatic ecosystem. Increases in flow resulting from this change in water use will help maintain cooler water temperatures and provide better habitat for cold water aquatic species.

Determination: No impact.

Groundwater - *Assess if the proposed project impacts ground water quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.*

Determination: N/A as this change in water use does not involve groundwater.

DIVERSION WORKS - *Assess whether the means of diversion, construction and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.*

To exercise the instream portion of this right, no means of diversion or conveyance are needed other than the natural stream channel. There will be no construction that would impact the

stream channel, or create a barrier to fish migration. There are no dams associated with this project. The project will not negatively alter groundwater quality or quantity; therefore well construction will not be impacted. The project will result in flow modifications; however, the end result will be more water flowing in Mill Creek to the benefit of aquatic life and cold-water fisheries.

Determination: No significant impact.

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species - Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any “species of special concern,” or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or “species of special concern.”

The Montana Natural Heritage Program was consulted to determine if there are any threatened or endangered fish, wildlife, plants or aquatic species or any “species of special concern” that could be impacted by the proposed project.

The Montana Natural Heritage Program identified westslope cutthroat trout as the only species of concern within the vicinity of the proposed protected reach in Mill Creek. The proposed application will require no site disturbances, and the instream flow water right will not result in the loss or negative alteration of any aquatic habitat.

Determination: No significant impact.

Wetlands - Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.

Determination: N/A project does not involve wetlands.

Ponds - For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.

Determination: N/A project does not involve ponds.

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE - Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.

This proposed change will not result in any negative impact to surrounding soils.

Determination: No impact.

VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS - *Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.*

This project will not result in any ground disturbance that could allow for the spread of noxious weeds, or cause any negative change to existing vegetative cover.

Determination: No impact.

AIR QUALITY - *Assess whether there will be a deterioration of air quality or adverse effects on vegetation due to increased air pollutants.*

There will be no source of pollutants associated with the change in water use that will alter air quality.

Determination: No impact.

HISTORICAL AND ARCHEOLOGICAL SITES - *Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project if it is on State or Federal Lands.*

There will be no construction or other activities that could degrade unique archeological or historical sites. There are no known unique archeological or historical sites in the vicinity of the proposed project.

Determination: No impact.

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY - *Assess any other impacts on environmental resources of land, water and energy not already addressed.*

None identified.

Determination: No impact.

HUMAN ENVIRONMENT

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS - *Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.*

The project is located in an area with no locally adopted environmental plans.

Determination: No impact.

ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES - *Assess whether the proposed project will impact access to or the quality of recreational and wilderness activities.*

The proposed project will not negatively impact access to or the quality of recreational and wilderness activities.

Determination: No impact.

HUMAN HEALTH - *Assess whether the proposed project impacts on human health.*

The project does not pose a significant risk to the human health.

Determination: No impact.

PRIVATE PROPERTY - *Assess whether there are any government regulatory impacts on private property rights.*

Yes ___ No X *If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights.*

Determination: No impact.

OTHER HUMAN ENVIRONMENTAL ISSUES – *For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.*

1. Impacts on:

- (a) Cultural uniqueness and diversity? None identified.
- (b) Local and state tax base and tax revenues? None identified.
- (c) Existing land uses? None identified.
- (d) Quantity and distribution of employment? None identified.
- (e) Distribution and density of population and housing? None identified.
- (f) Demands for government services? None identified.
- (g) Industrial and commercial activity? None identified.
- (h) Utilities? None identified.
- (i) Transportation? None identified.
- (j) Safety? None identified.

2. *Secondary and cumulative impacts on the physical environment and human population:*

Secondary Impacts None identified.

Cumulative Impacts None identified.

3. *Describe any mitigation/stipulation measures:*

No reasonable alternatives were identified in the EA.

4. *Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider:*

Part III. Conclusion

1. *Preferred Alternative:* None identified.

2. *Comments and Responses*

3. *Finding:*

Yes___ No X Based on the significance criteria evaluated in this EA, is an EIS required?

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action:

An EA is not the appropriate level of analysis for the proposed action because no significant impacts were identified.

Name of person(s) responsible for preparation of EA:

Name: Danika Holmes

Title: Hydrologist/Water Resource Specialist

Date: November 21st, 2016